REMARKS

Claims 1-11, 14-19 and 28 have been previously canceled; no claims are currently canceled. Claims 12, 29 and 30 have been amended by way of this response. No new claims have been added. Thus, claims 12, 13, 20-27, 29 and 30 are currently pending and presented for examination. Applicant respectfully requests reconsideration and allowance of the pending claims in view of the amendments and the remarks.

Response to rejections under 35 U.S.C. 102:

Claims 12, 13, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Mattejat et al. (US 5,472,801).

Independent claims 12, 29 and 30 have been amended and now recite:

"...

the separator is formed from two plates, a first and a second plate, each having [[an]] embossings and touching at contact surfaces, wherein the embossings are formed as circular depressions, and wherein the embossings of the plates are offset relative to one another such that one circular depression of the first plate is connected to three circular depressions of the second plate by an overflow section, thereby forming a reticulated cooling chamber structure covering an entire surface of the separator;

..."

Support for these amendments may be found for example in paragraph [0016], lines 9-16, of the substitute specification. No new matter has been added.

In the instant office action, it is noted that applicant's argument 'that the circular depressions do not touch each other' is not recited in the claims (office action, page 10). With the above noted amendments, the applicant tries to specify the independent claims in that a circular depression of a first plate is connected to three circular depressions of the second plate *via an overflow section*. This means, that the depressions do not touch each other and thereby the cooling medium flows freely between the two plates (see also FIG 2 and paragraph [0016] of the substitute specification).

As already noted in applicant's previously filed response, Mattejat et al. describes a component for installation in a process control apparatus which can be inserted into a fuel cell

block. The component includes two plates disposed parallel to one another. Mattejat et al. discloses in col. 7, lines 41-48, hemispherical protuberances or half-round groove-like protuberances or frustoconical protuberances in the plates 40, 42, having structures which are staggered with respect to one another, in order to space the plates apart. As can be seen in FIG 4-6, these protuberances touch each other in order to space the plates apart. For example, as described in col. 7, lines 60-65, a truncated cone of the plate 40 is disposed concentrically with the equilateral triangle that is formed of three truncated cones of the plate 42 and a the same time rests on the three truncated cones.

It is respectfully submitted that Mattejat et al. does not teach or suggest applicant's claim elements noted above, i.e. that one circular depression of the first plate is connected to three circular depressions of the second plate by an overflow section, thereby forming a reticulated cooling chamber structure covering an entire surface of the separator. It is respectfully requested to withdraw the rejections under 35 U.S.C. 102.

Response to rejections under 35 U.S.C. 103:

Claims 24-27, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattejat et al. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattejat in view of Yasuo (US 2002/0187379). Claims 12, 13 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. (US 2003/0162078) in view of Hulswitt et al. (US 4,569,391). Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. in view of Hulswitt et al. and further in view of Yasuo et al.

For at least the reasons discussed in connection with the rejections under 35 U.S.C. 102, applicant respectfully submits that claims 13, 20-27, 29 and 30 are patentable and respectfully request the examiner to withdraw the rejections under 35 U.S.C. 103.

With regard to independent claim 12, it is respectfully submitted that neither Kikuchi et al. nor Hulswitt et al. alone or in combination teach or suggest applicant's claimed invention.

Kikuchi et al. discloses in paragraph [0022] that the first and second metal plates have first and second protrusions in contact with the electrolyte electrode assemblies so that the flat part of the first plate and the flat part of the second plate are spaced from the membrane assemblies. Further, paragraph [0024] discloses that a coolant flow passage is only formed when

necessary. Also, FIG. 6 of Kikuchi shows that the coolant flow passage 146 does not cover the entire surfaces of the separators as the coolant passage 146 is located in a certain area only.

Hulswitt et al. describes a compact heat exchanger with a plurality of parallel spaced plates, the spaces between the plates defining fluid receiving passageways. Each plate includes protuberances staggered with respect to the protuberances on each adjacent plate so that the protuberances of one plate rest against the adjacent plate between the protuberances thereof (Hulswitt et al., abstract).

Conclusion

For at least the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding office action are inapplicable to the present claims. Applicant respectfully requests allowance of the pending claims. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including fees for additional claims and terminal disclaimer fee, or credit any overpayments to deposit account no. 19-2179.

Respectfully submitted,

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